No. S-224444
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, C. C-36, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF CANADIAN DEHUA INTERNATIONAL MINES GROUP INC., WAPITI COKING COAL MINES CORP., AND CANADIAN BULLMOOSE MINES CO., LTD.

PETITIONERS

NOTICE OF APPLICATION

Name of applicant: Qu Bo Liu (the "**Applicant**" or "**Mrs. Liu**")

To: The Service List (attached hereto as Schedule **"A"**) and TaneMahuta Capital, Ltd., West Moberly First Nations, and Karen Fellowes, K.C. (the "**Respondents**")

TAKE NOTICE that an application will be made by the Applicant to Mr. Justice Walker at the courthouse at 800 Smithe Street, Vancouver, British Columbia on 13/JAN/2025 at 10:00 AM,for the orders set out in Part 1 below. The Applicant estimates that the application will take 2 DAYS.

☒ This matter is not within the jurisdiction of an associate judge as Mr. Justice Walker is seized of this matter.

Part 1: ORDER(S) SOUGHT

1. An order approving the purchase agreement between Canadian Dehua International Mines Group Inc. ("**CDI**"), Wapiti Coking Coal Mines Corp, and Canadian Bullmoose Mines Co., Ltd. (collectively, the "**Debtors**") and the Applicant dated October 9, 2024, a copy of which is attached as Schedule **"B"** together with the required vesting order for the purchased assets.

2. An order that TaneMahuta Capital, Ltd. ("**TaneMahuta**"), West Moberly First Nations ("**West Moberly**"), Aref Hossein Amanat ("**Mr. Amanat**") and Karen Fellowes, K.C. ("**Ms. Fellowes K.C."**), or one or more of them, pay the following costs:

   (a) the amount secured by the Administrative Charge of $350,000;

{FLG-00684762;1}

(b) any professional fees incurred by FTI Consulting Canada Inc. (the "**Monitor**") and its counsel, Bennett Jones LLP, and CDI's counsel, DLA Piper (Canada) LLP, since August 30, 2024, in excess of the Administrative Charge;

(c) the funds held by the Monitor, including those funds sequestered pursuant to the Order of the Court made on December 2, 2024, be used to pay the amount secured by the Administrative Charges as well as any addition professional fees as described in subparagraph (b) above; and

(d) the legal fees incurred by Qu Bo Liu on a special costs basis from and including August 30, 2024, to the entry of the orders described in paragraph 1 above.

(collectively, the "**Costs**").

3. The balance of the funds held by the Monitor from TaneMahuta, other than the $350,000, which was sequestered pursuant to the Order of the Court made on December 2, 2024, is to be sequestered by the Monitor pending the determination of the application in respect of the Costs sought by the Applicant.

4. Any further relief the Court deems appropriate.

PART 2: FACTUAL BASIS

A. The Parties and Background Facts

1. The petitioner Canadian Dehua International Mines Group Inc. ("**CDI**"), has been under the protection of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**") since June 3, 2022. FTI Consulting Canada Inc. was appointed as monitor in these proceedings (the "**Monitor**").

2. CDI owns all of the shares of:

(a) Wapiti Coking Coal Mines Corporation ("**Wapiti**"); and

(b) Canadian Bullmoose Mines Co. Ltd. ("**Bullmoose**").

3. CDI, Wapiti and Bullmoose have pursued, in joint venture agreements with Chinese state-owned enterprises, the exploration for and development of coal mines in Northeastern B.C. These ventures are called the Wapiti Project and the Bullmoose Project.

4. CDI holds 9 mineral titles for the Bullmoose Project. Wapiti holds 5 mineral titles for the Wapiti Project. There are no mineral titles registered in the name of Bullmoose. The business of CDI, Wapiti and Bullmoose is highly integrated.

5. CDI, Wapiti, Bullmoose, along with their joint venture partners who are Chinese state-owned enterprises expended substantial amounts on exploration work between 2011 and 2012 at which time activities were suspended. The Chinese entities have made claims exceeding $84 million against CDI. These companies have co-extensive claims against Wapiti and Bullmoose.

6. On April 6, 2022, China Shougang International Trade & Engineer Corporation ("**Shougang**"), which holds a Chinese arbitration award and has obtained a judgment in BCSC for $20.8 million against CDI, commenced proceedings pursuant to the *Bankruptcy and Insolvency Act*. In response, CDI obtained an order for creditor protection. On June 9, 2022, CDI obtained an order approving debtor-in-possession financing from Mrs. Liu, who is a shareholder and director of CDI. The other shareholder is her husband Naishun Liu.

7. On November 30, 2022, the court approved a Modified Sales and Investment Solicitation Process (the "**SISP**").[1] The SISP provides for sale of the Wapiti and Bullmoose Projects together with the Murray River Project, the latter of which is not in issue at this time.

8. On July 3, 2024, in the name of TaneMahuta, Mr. Amanat wrote to the Monitor, to advise that it was interested, for conservation purposes, in purchasing for $400,000, all of the coal licences, geological data and other assets owned by CDI and its subsidiaries, Wapiti and Bullmoose, for the Wapiti and Bullmoose Projects.[2] On July 9, 2024, Mr. Amanat sent a letter of intent to the Monitor, in which, he wanted a period of exclusivity.[3]

9. Ms. Fellowes K.C. was advised by CDI and the Monitor that the price was too low, the exclusivity was not acceptable and the price needed to be in the 7 figure range. The Monitor advised Ms. Fellowes K.C. that Mrs. Liu was likely to make a creditor bid using the DIP loan of over $1,450,000 she had provided to CDI. Ms. Fellowes K.C. responded to say that if Mrs. Liu wanted to out-bid her client using her DIP loan, "so be it."[4]

10. Mr. Amanat then sent another letter to the Monitor dated July 31, 2024, offering to make a Stalking Horse Bid, again for the price of $400,000. Ms. Fellowes K.C. was advised the time frame for other bidders was too short, CDI had a concern about the Stalking Horse fee and again advised the price needed to be in the range of 7 figures.[5]

11. With the order then in place for a Stay of Proceedings about to expire, and, at the urging of counsel for CDI, Mrs. Liu decided she would make an offer for assets of the Wapiti and Bullmoose Projects. On August 28, 2024, Mr. Fraser wrote to counsel for CDI and the Monitor

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[1] Affidavit #1 of Xiao Liu made October 15, 2024 (the "**Liu Aff #1**"), Ex F
[2] Liu Aff #1, Ex G
[3] Liu Aff #1, Ex I
[4] Affidavit #2 of Elyssa Boongaling made December 23, 2024 (the "**Boongaling Aff #2**"), Ex T
[5] Boongaling Aff #2, Ex E, page 39 and Transcript of Cross-Examination of Mr. Amanat (the "**Transcript**") page 91 to 92

to advise that Mrs. Liu was contemplating an offer of $600,000. Ms. Fellowes K.C. was provided with a copy of this communication.[6]

12. On August 30, 2024, the court, having been advised there were at least two interested bidders, ordered that binding bids for the Wapiti and Bullmoose Assets be submitted by 4:00 p.m. on September 6, 2024 (the "**August 30 Order**"). The order provided that the court would determine the best offer on September 17, 2024.

13. As of September 6, 2024, Mrs. Liu had provided debtor-in-possession financing to CDI in the amount of $1,499,331.16 (the "**DIP Loan**"). Most of the DIP Loan has been used to pay the fees of DLA Piper (Canada) LLP, CDI's counsel, the Monitor and its counsel, Bennett Jones LLP. The remaining funds were allocated for payments to the Ministry of Finance and used to pay fees for the licences owned by Wapiti or held by CDI for the Bullmoose Project.

14. Mrs. Liu's bid was for $1,650,000, in the form of a Purchase Agreement which could be accepted by CDI without further negotiation, subject only to approval by the Court and the required vesting order. $1,450,000 of the purchase price would be an offset to the DIP Loan with $200,000 of new funds to be used by CDI to further the SISP process for the benefit of creditors.

15. Mrs. Liu's offer was compliant with the terms of the August 30 Order as it was a binding offer for the Wapiti and Bullmoose assets (the "**Wapiti and Bullmoose Assets**") which could be accepted without further negotiation. She subsequently provided to CDI, in compliance with the terms of the SISP Order, a deposit of $165,000.

16. On September 6, 2024, Mr. Amanat, in order to conceal the fact that he was acting as counsel for West Moberly First Nations,[7] made an offer for the Wapiti and Bullmoose Assets in the amount of $650,000 in the name of TaneManhuta. This offer did not include a form of Purchase Agreement which could be accepted by CDI.

17. On September 17, 2024, the court heard submissions from Ms. Fellowes K.C. that the bid in the name of TaneMahuta was superior, although for $1 million less than Mrs. Liu's bid. When the court noted the absence of an asset purchase agreement accompanying the bid in the name of TaneMahuta, Mr. Amanat revised the Purchase Agreement accompanying Mrs. Liu's bid to substitute TaneMahuta for her name. The court determined that Mrs. Liu had made the superior bid.

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[6] Boongaling Aff #2, Ex E, page 26 and the Transcript page 37, l. 27 to l. 42

[7] Boongaling Aff #2, Ex E, page 26 and the Transcript page 8, l. 9 to 12, l. 20 to 43

18. Mr. Bradshaw filed an application to add Wapiti and Bullmoose as Petitioners so that their assets could be made subject to a vesting order and for approval of the sale of the Wapiti and Bullmoose Assets to Mrs. Liu to be heard on October 9, 2024.

19. On October 9, 2024, Mr. Bradshaw advised the court that CDI had determined the creditors of Wapiti and Bullmoose were co-extensive with the creditors of CDI and no further claims process was required. Ms. Fellowes K.C. made the submission that TaneMahuta, who she referred to as her client, had been treated unfairly by CDI and should be given an opportunity to make an application seeking an order that it be permitted to make a further bid. The court ordered that further submissions be made on October 17, 2024.

20. On October 15, 2024, a notice of application purporting to be in the name of TaneMahuta was filed by Ms. Fellowes K.C. seeking an order that it be permitted to make a further offer for the Wapiti and Bullmoose Assets in the amount of $2,000,000 and that this offer be approved.[8]

21. The hearing of what the court and all other parties understood to be an application made by TaneMahuta, took place on October 17, 18, 21 and 22, 2024. The court heard submissions from Mr. Bradshaw, Mr. Fraser, Ms. Fellowes K.C., and counsel for each of the Monitor, Shougang, and Canada Zhonghe Investment Ltd.

22. In her submissions, purporting to be on behalf of TaneMahuta, Ms. Fellowes K.C., alleged that Mrs. Liu and her son had been engaged in a fraudulent conveyance of licences, had breached provisions of the *Bankruptcy and Insolvency Act*, were acting in bad faith, that counsel for CDI were in a conflict of interest in taking instructions from Mrs. Liu, that TaneMahuta had not been treated fairly by CDI which had refused to engage in discussions through July and August, 2024, in response to TaneMahuta's expressions of interest, and there was an unfair information gap between TaneMahuta and Mrs. Liu, who was an insider. Ms. Fellowes K.C. suggested that the court should made an order pursuant to s. 18.6 of the CCAA.

23. Ms. Fellowes K.C. advised the court that TaneMahuta was able to revise its offer to $2 million as it had recently obtained information about the amount of coal contained in the Wapiti and Bullmoose licences as well as information about valuable equipment revealed by Bullmoose financial statements for 2019, and amounts spent on construction. She advised the court of the urgent need to visit the licences to confirm the information TaneMahuta had been provided. She did not explain how this information was consistent with TaneMahuta being interested in acquiring the Wapiti and Bullmoose Assets for conservation. She did not explain why TaneMahuta had not undertaken due diligence, except to visit the data room, prior to September 6, 2024.

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[8] Nineteenth Report of the Monitor, Appendix A

24. Naturally, this inconsistency led to the submission for Mrs. Liu that TaneMahuta's true purpose and its funding sources were highly in doubt. Mr. Fraser referred to TaneMahuta as a "black box".

25. On October 22, 2024, in response to the submissions made on behalf of Mrs. Liu, Ms. Fellowes K.C. tendered a second affidavit of Mr. Amanat in which he claimed that he made the decision to increase TaneMahuta's bid to $2 million, not because he had obtained additional information about coal reserves, equipment and construction, but because the addition of Wapiti and Bullmoose as Petitioners eliminated any risk posed by creditors of those companies.

26. This was inconsistent with the submissions he made on September 17, 2024, when he said he was not concerned about creditors. It was also inconsistent with the terms of TaneMahuta's September 6 bid which required all of the assets to be delivered free and clear of encumbrance by virtue of a satisfactory vesting order.

27. In his second affidavit, Mr. Amanat denied that the source of TaneMahuta's funds were any of the Chinese state-owned enterprises. He did not say the actual source.

28. On October 22, 2024, the court made an order that Mr. Amanat be cross-examined on his second affidavit. The court ordered that the parties return on November 19, 2024 for an application to further extend the Stay and for a JMC.

TaneMahuta Concealed the CSR and Failure to Produce Financial Documents

29. Between November 4 and 5, 2024, in preparation for the cross-examination of Mr. Amanat, Mr. Fraser's office arranged with TaneMahuta's registered and records office, then the firm Richards Buell Sutton LLP ("**RBS**"), to inspect the corporate records of TaneMahuta pursuant to the *Business Corporations Act* (the "***Act***") and, in particular, sought a copy of TaneMahuta's Central Securities Register (the "**CSR**").[9]

30. On November 6, 2024, a paralegal from Mr. Fraser's office attended RBS' office to inspect the corporate records of TaneMahuta. During the inspection, RBS refused to provide TaneMahuta's CSR for inspection, relying on s. 49 of the *Act*.

31. Later that day, co-counsel for Mrs. Liu, Helen Liu, wrote to RBS, advising that s. 49 of the *Act* did not apply to Mrs. Liu's request and again asked for the CSR.[10]

32. On the following day, RBS informed Mr. Fraser' office that the registered and records office had been changed and RBS would not be providing the CSR.

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[9] Liu Aff #2, Ex C
[10] Liu Aff #2, Ex E

33. On November 8, 2024, Mr. Fraser wrote to Ms. Fellowes, K.C., to request the CSR and records showing the source of TaneMahuta's funds. Mr. Fraser also made an inquiry about Mr. Amanat's availability for cross-examination on November 22, 2024.[11] There was no response.

34. On November 12, 2024, Mr. Bradshaw sent an email to Ms. Fellowes requesting confirmation of Mr. Amanat's availability for cross-examination on November 22, 2024.[12] Again, there was no response.

35. On November 15, 2024, Michael Feder, K.C., Lance Williams, Kevan Hanowski and Ashley Bowron of McCarthy Tétrault LLP filed a Notice of Appointment or Change of Lawyer in place of Ms. Fellowes, in these proceedings.[13]

36. On November 19, 2024, at the hearing before Justice Walker, Mr. Fraser advised the court that he had requested the CSR and financial records but had not received a response. Mr. Hanowski advised the court that he expected to obtain instructions by the following Tuesday to make a proposal regarding the withdrawal of all allegations of misconduct made by Ms. Fellowes, in exchange for a withdrawal of Mr. Amanat's second affidavit and agreement to vacate the order for his cross-examination.

37. Over the break, Mr. Hanoswki advised Mr. Fraser that the registered and records office of TaneMahuta had been changed to suite 100 – 1515 West 7th Avenue, Vancouver, B.C. (the "**R&R Office**").[14] Mr. Fraser and his associate Ms. Liu attempted to examine the corporate records that day at the new R&R Office but were told they would have to make an appointment with Mr. Amanat who was not available.

38. On November 19, 2024, Justice Walker directed the cross-examination of Mr. Amanat take place no later than December 16, 2024, and granted short leave to Mrs. Liu to file materials for any applications relevant to the cross-examination of Mr. Amanat.[15]

39. On November 22, 2024, Mr. Fraser wrote to McCarthy Tétrault LLP requesting Mr. Amanat provide a time for them to re-attend at the R&R Office to inspect the CSR and other public documents.[16] There was no response.

40. On the same day, Mr. Fraser also wrote to McCarthy Tétrault LLP to advise of the allegations of unfairness and misconduct alleged on the part of Mrs. Liu, CDI, its counsel, the Monitor, and its counsel, that would need to be withdrawn in exchange for TaneMahuta not filing the

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[11] Affidavit #2 of Xiao Liu made November 15, 2024 the (the "**Liu Aff #2**"), Ex G
[12] Liu Aff #2, Ex H
[13] Affidavit #3 of Xiao Liu made November 28, 2024 (the "**Liu Aff #3**"), Ex B
[14] Liu Aff #3, Ex A
[15] Liu Aff #3, Ex C
[16] Liu Aff #3, Ex E

second affidavit of Mr. Amanat. Mr. Fraser did not agree to the order for Mr. Amanat's cross-examination being vacated.[17]

41. On November 25, 2024, Mr. Fraser wrote to McCarthy Tétrault LLP and again requested that Mr. Amanat provide a time when they may inspect the CSR and other publicly available records of TaneMahuta. Mr. Fraser also requested TaneMahuta provide the records which will show the true source of TaneMahuta's funds.[18]

42. On November 26, 2024, Mr. Amanat served a Notice of Intention to Act in Person.[19]

43. On November 26, 2024, Ms. Liu sent an email to Mr. Amanat forwarding Mr. Fraser's letters to McCarthy Tétrault LLP, and requested time for inspection of the CSR and public records.[20]

44. On November 27, 2024, Mr. Amanat wrote to Mr. Fraser advising TaneMahuta was no longer participating in these proceedings, was withdrawing its bid as well as its related submissions and affidavits.[21] Mr. Amanat advised he expected this resolves all outstanding issues between TaneMahuta and the parties to the CCAA proceedings, including issues regarding his cross-examination and production of TaneMahuta's CSR.

B. Concealment of TaneMahuta and West Moberly First Nations

45. On November 26, 2024, Joshua J. Lam, counsel for West Moberly sent a letter to the Monitor to "clarify" the relationship between West Moberly and TaneMahuta and to submit a bid on behalf of West Moberly for the purchase of the Wapiti and Bullmoose assets.[22]

46. In this letter, Mr. Lam advised that:

(a) West Moberly asked TaneMahuta and Mr. Amanat to bid in these proceedings on its behalf, as West Moberly preferred not to be directly involved;

(b) West Moberly is the sole and exclusive investor and source of funds for TaneMahuta's bid;

(c) the funds for TaneMahuta's $2 million offer belong to West Moberly; and

(d) West Moberly decided to step into these proceeding directly, with its bid of $2,200,000 for the Wapiti and Bullmoose assets due to the "distracting questions have been raised in the CCAA Proceedings concerning the source of TaneMahuta's funds and the purposes of its bid." Mr. Lam went on to say "I trust that those

[17] Liu Aff #3, Ex D
[18] Liu Aff #3, Ex F
[19] Liu Aff #3, Ex G
[20] Liu Aff #3, Ex H
[21] Liu Aff #3, Ex I
[22] Affidavit #1 of Elyssa Boongaling made November 29, 2024, Ex A

questions have now been put to rest." However, he did not explain why West Moberly sought to conceal that it was the true party making the September 6 Bid and the true party making the October 15, 2024 application.

47. Despite the disclosure in Mr. Lam's letter about the ownership of funds, on his cross-examination, Mr. Amanat provided a wire transfer document showing just over $937,000 provided by West Moberly to Stikeman Elliott LLP, Vancouver,[23] but refused to provide documents showing the source of the balance of $2 million on the basis it was privileged.

48. On December 2, 2024, Justice Walker ordered that Mr. Amanat attend cross-examination on his second affidavit on December 10, 2024, and Mr. Amanat to bring with him for the purpose of the cross-examination the CSR of TaneMahuta and financial records showing the source of the funds used by TaneMahuta to pay a deposit of $650,000 to the Monitor and the source of the funds for the balance of the purchase price of $2 million.

49. The Court also ordered that $350,000 of the deposit received by the Monitor from TaneMahuta is to be sequestered by the Monitor pending the determination of the application in respect of the costs sought by Mrs. Liu against TaneMahuta.

50. On December 4, 2024, in preparation for Mr. Amanat's cross-examination, and to evaluate and understand the actions of West Moberly, Mr. Fraser wrote to Mr. Lam to request West Moberly provide the following documents:[24]

(a) copies of the Band Council Resolutions (the "**BCRs**") providing for the authorizations to TaneMahuta and/or Mr. Amanat to participate in the biding, and to increase its biding through out the process;

(b) minutes of the Band Council meetings which such BCRs were enacted;

(c) any written contracts, letters of intent or expressions of interest between West Moberly, TaneMahuta or the other parties regarding West Moberly's interest in the purchase of the assets;

(d) the BCRs deciding to pursue acquisition of the assets for both resource development as well as conservation; and

(e) copies of any agreements, letters of intent or discussions with third parties related to resource development of the Wapiti and Bullmoose coal projects.

51. There has been no response to this request.

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[23] Boongaling Aff #2, Ex H

[24] Boongaling Aff #2, Ex A

52. On December 5, 2024, Ms. Liu wrote a letter to Mr. Amanat to provide a copy of the court summary sheet of the hearing on December 2, 2024, and a cheque for conduct money for the examination.

53. On the same day, Kenneth McEwan, K.C., wrote to Mr. Fraser, advising that Mr. Amanat had sought his representation for the cross-examination, but he was occupied on December 10th and sought to have the cross-examination rescheduled.

54. Mr. Fraser wrote to Mr. McEwan, advising his condition for rescheduling the cross-examination was that Mr. Amanat provide, by December 10th , the documents he had been ordered to provide for his cross-examination, specifically the CSR and the documents showing the source of funds which TaneMahuta was using for the purchase of the Wapiti and Bullmoose assets.

55. On December 6, 2024, Mr. McEwan, wrote to Mr. Fraser advising that he could not offer any advice to Mr. Amanat until after December 10th and could not agree to Mr. Fraser's condition for rescheduling.

56. Mr. Fraser wrote to Mr. McEwan advising again if Mr. Amanat wanted to reschedule his cross-examination, he would need to provide by December 10, the documents he has been ordered to produce, and the documents should not be difficult to produce:

> Producing the CSR is not a difficult matter. It is a document that TaneMahuta should have made available for inspection when we sought to examine it back on November 6. I don't see the need for legal advice.
>
> As for the documents that show the source of the funds, that should be straightforward as well – for example, texts, email or correspondence with the party or parties that provided the funds which establish who is providing the funds, and bank records such as account statements showing receipt or deposit of funds along with copies of cheques, bank drafts and wire transfer confirmations which will identify the party or parties providing the funds.

57. Later that day, Ms. Liu wrote a letter to Mr. Amanat, advising that if Mr. Amanat provided the documents requested by 5pm on December 9, 2024, they would agree to reschedule the cross-examination to a date later in the week. There was no response.

C. Cross-Examination of Mr. Amanat

58. On December 10, 2024, Mr. Amanat attended the cross-examination and brought the following two documents:

(a) the CSR of TaneMahuta; and

(b) a transaction record from CIBC showing that on July 4, 2024, $937,276.69 was transferred to Stikeman Elliott LLP by West Moberly.

59. The cross-examination of Mr. Amanat revealed an extraordinary effort by Mr. Amanat and Ms. Fellowes K.C. to deceive the court into believing that TaneMahuta was the actual bidder and to conceal the involvement of West Moberly. In particular, Mr. Amanat admitted that

(a) he, at all times, was acting as the lawyer for West Moberly and not as the director of TaneMahuta;

(b) his instructions were to conceal the involvement of West Moberly;

(c) TaneMahuta was only acting as an agent of West Moberly;

(d) Ms. Fellowes K.C. was acting at all times for West Moberly and her fees were paid by West Moberly;

(e) Ms. Fellowes K.C., advised him that it was appropriate to engage in this deception of the court; and

(f) as West Moberly's lawyer, he kept West Moberly promptly advised of all developments.

60. Excerpts from Mr. Amanat's cross-examination are set out below:

Page 7

32 Q: Now, when did you form a business relationship with West Moberly First Nations?

34 A: **I do not have a business relationship with West Moberly First Nations.**

38 A: **I am West Moberly's lawyer.**

Page 8

9 Q: Okay. So you're a lawyer. Would it be fair to characterize the relationship between TaneMahuta and West Moberly First Nations as TaneMahuta acting as agent for an undisclosed principal?

13 A: **Yes.**

14 Q: So that agency relationship -- was that described or put down in writing?

16 A: **In my capacity as a lawyer to West Moberly, there were written communications between me and West Moberly describing the use of TaneMahuta to bid on assets for West Moberly.**

......

43 A: **I, as West Moberly's lawyer, was interacting with West Moberly and -- and bid through TaneMahuta on their behalf.**

Page 10

5 Q: Just try to answer my question and don't give me a lecture. Did you ask Ms. Fellowes, KC, for advice as to whether it was appropriate for TaneMahuta to be pretending to the court that it was making a bid on its own behalf when it was, in fact, acting for West Moberly First Nations?

11 A: **Ms. Fellowes was aware of the arrangement. She was clearly fine with it and raised no issues when asked.**

14 Q: So you did ask her about it; correct?

15 A: **Of course.**

16 Q: And she said, this is fine; we'll – we won't tell the court that your're actually acting for West Moberly First Nations?

19 A: **Of course.**

20 Q: So why was that arrangement made? What -- what was the -- why wasn't West Moberly making its own bid in its own name for the Wapiti and Bullmoose assets?

24 A: **West Moberly preferred to remain anonymous in the bidding and did not want its activity in the bidding to be known.**

Page 11

14 Q: All right. So your entire answer is you weren't aware that you were obligated to advise the court of your dual role. Because you told the court you were the president of TaneMahuta, but, of course, you're also a lawyer for the principal who's actually doing the bidding and putting up the money. And your explanation for not telling the court that you're acting as lawyer for West Moberly First Nations is that you weren't aware of any obligation to do so?

27 A: **I was advised that there was no requirement. We had hired specialized insolvency counsel, and it was my understanding -- and it still is my understanding -- that -- that my -- my lack of disclosure about the undisclosed principal was entirely appropriate and that there is nothing untoward or improper with respect to that.**

Page 12

44 Q: [letter from Mr. Amanat to the Monitor on July 3rd, 2024] Yeah. And you were able to say that the funds were in trust because, as shown in Exhibit 3, West Moberly had sent over 900,000 to Stikeman Elliott Vancouver?

Page 13:

1 A: **That's correct**

27 Q: And you knew that the licences for the Wapiti and Bullmoose projects could be searched online?

29 A: **I must have known that, yes.**

Page 14

3 Q: Sorry. Your -- sorry. I was -- I kept referring to your offer, right, but I should correct myself. Because your letter of July the 3rd, 2024, that's an offer of 400,000 being made on behalf of West Moberly First Nations; correct?

8 A: **Yes, that's correct.**

9 Q: As the undisclosed principal; right?

10 A: **Correct. I mean, it is also at the same time an offer of TaneMahuta.**

12: Q: Yes. Except you're not making it for TaneMahuta's benefit; you're making it better the benefit of West Moberly First Nations; correct?

15 A: **That's correct.**

Page 20

40 Q: Mr. Amanat, when did you first start acting as lawyer for West Moberly First Nations?

42 A: **I believe it was in 2019.**

Page 21

20 Q: I see that the schedule has a box headed "Assignment." And it says, "buyer may assign the asset purchase agreement." Do you see that?

23 A: **Yes.**

24 Q: And that was included because TaneMahuta was acting for West Moberly First Nations and, if it was successful in concluding an asset purchase agreement, it would be then assigned to West Moberly First Nations; correct?

29 A: **Yes. I'd included it to have that flexibility.**

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33 Q: Now, you said that TaneMahuta was not getting paid for acting as the agent of West Moberly but you were getting paid fees as a lawyer; correct?

36 A: **That's correct.**

...

42 Q: And I take it you've been paid as a lawyer for all the time you've had to spend on this matter, so that would include writing letters to the monitor, the September the 6th bid, reporting to your client West Moberly, spending time in court, giving instructions for the October 15th, 2024, notice of application. You've been, you know, paid for all the time you've had to spend on this; correct?

Page 55 4 A: **Yes.**

Page 55

5 Q: Now, I just want to clarify who Stikeman Elliott and Ms. Fellowes were acting for. Were they retained by TaneMahuta or by West Moberly?

8 A: **By West Moberly.**

9 Q: Okay. And I take it that Stikeman Elliott's bills and Ms. Fellowes' bills, they were being paid by West Moberly as well; correct?

12 A: **Yes.**

61. Mr. Amanat provided the following evidence regarding TaneMahuta's offer of $650,000, and stated he would keep West Moberly informed of the biding process and act upon West Moberly's instructions:

Page 22:

17 Q: And you knew that a Mrs. Qu Bo Liu had been providing debtor-in-possession financing under the CCAA proceedings?

20 A: **I would have been aware, yes.**

27 Q: And you would have known from reading the monitor's reports that as of July 31st she had provided the company with over $1.4 million in debtor-in-possession funding?

31 A: **I can't confirm the precise amount, but I would have been aware that she had provided significant funding, yes.**

Page 34

39 Q: Now, as the events of July and August transpired, who were you reporting to on behalf of West Moberly First Nations?

42 A: **I would communicate with chief, council, and Mr. Lam.**

44 Q: And I take it as a competent lawyer you would have been keeping them abreast of all the developments that took place. So if you weren't getting what you considered to be an appropriate response from the monitor, you would let West Moberly know? If there was a court application coming up, you would let West Moberly know; correct?

Page 35

4 A: **In keeping with my obligations to keep them informed, yes. I would inform them.**

Page 36

8 Q: Well, it turns out TaneMahuta did make an offer by September the 6th, 2024; correct?

10 A: **Correct.**

11 Q: And so you must have had instructions from West Moberly First Nations to make that offer [for $650,000]

13 A: **I think that's reasonable inference, yes.**

14 Q: So you must have told them the order that was made? You see this order; it's got a stamp on it -- August the 30th, 2024. So that order was available the same day it was made. You see that; correct?

19 A: **Sure, yes.**

20 Q: So did you send a copy of this order to your client, West Moberly First Nations, the day it was made or the next day?

23 A: **I can't recall at this time what I would have sent to the client.**

25 Q: It would have been prompt, though, don't you agree? You would have had to have sent something to them promptly to get instructions to make an offer for –

29 A: **Yes.**

33 Q: And you got instructions to make an offer of $650,000 on an undisclosed basis for West Moberly First Nations?

36 A: **Yes.**

Page 37

12 Q: All right. So on September 6th, 2024, your instructions had changed, and the instructions were $650,000; correct?

15 A: **Correct.**

16 Q: Did anything materialize between August the 26th and September the 6th which resulted in the offer going up by $250,000?

19 A: **If I recall correctly, there had been a few communications between the monitor and my counsel, Ms. Fellowes, which had indicated that the interim lender wished to make a bid. So we were aware now of a competitive situation after the August 30th order, and the circumstances had changed. The competitive landscape had changed for the bidding on this asset.**

34 Q: Let's just pull it up. So here's an email from myself to Mr. Bradshaw and a number of others, including the monitor, dated August 28th, 2024. You've probably seen this?

38 A: **This looks familiar. I believe I saw this. I don't know which day I saw it.**

40 Q: You saw it before September 6th, though, I take it?

42 A: **I -- I would -- I would believe so, yes.**

Page 38

9 Q: Sorry. Is this why the September 6th offer made by TaneMahuta on behalf of West Moberly First Nations was for $650,000? This statement in this email saying Ms. Liu was going to make a bid of $600,000?

14 A: **I'm certain that it informed the decision to bid 650,000. I'm not sure it was the only reason. But it's certainly – the fact that there was an alternative $600,000 bid was relevant, yes.**

Page 39

22 Q: All right. So I take it you must have discussed that matter with your client, West Moberly First Nations, and said to them, there's an issue here. Ms. Liu can bid $1,450,000 approximately without putting anymore cash in by using her DIP loan for the purchase. You must have informed your clients of that?

29 A: **I don't know that I did. And if I did -- I can't recall at this time, to be frank. But even if I did, I -- I think that would be a matter covered by privilege.**

Page 40

12 Q: All right. And so knowing those facts, why is it that West Moberly, through TaneMahuta, made a bid of only $650,000? Why did they take the chance that she wouldn't make a much higher bid using her debtor-in-possession financing?

17 A: **So I -- I can't speak to why West Moberly did what it did, but I can speak to at least my general understanding of the situation you're describing. And I suppose there was a chance of being outbid even had we bid above the then-current balance of the -- of the DIP loan. So there was always a chance that we would be outbid. Presumably, the credit balance that Mrs. Liu had on her interim loan was of value to her. And it's not of zero value. So for her to bid the full amount of her DIP loan would still represent an expenditure from her that would be -- that would offset the amount of money owed to her from the company. So it's not clear to me, generally speaking -- though, again, I can't comment on precisely what -- what was behind West Moberly's decision. I can simply say as a general matter it's not obvious to me that Ms. Liu would have considered her -- her DIP loan balance to be worthless or to be of -- of no value such that she could bid its entirety without any consequence. Bidding the entirety of her DIP loan would have had a consequence to her which would have meant a reduced recovery in cash from the company at some future time.**

62. Mr. Amanat provided the following evidence regarding West Moberly's instructions to him to bid $650,000 on September 6, 2024:

Page 75

18 Q: And you assumed that she would make a bid of $600,000, so all you had to do was come in above that at 650 and West Moberly First Nations would have the winning bid. And so you didn't think in those circumstances it was necessary to do any due diligence. That's what you did; isn't that right?

24 A: **I think it is fair to say that we had hoped and we expected that our $650,000 bid would win the day. And we had knowledge of your email, I believe, in advance of making that bid. I'd have to -- I don't remember precisely which day I would have seen that email from you, Mr. Fraser, about the$600,000 bid. So -- so certainly we had hoped to bid more than the other bidder, and that would have -- that would have influenced our thinking.**

33 Q: If you could go back and look at your affidavit, please, I have just a couple questions about your affidavit number 2. We're at paragraph 14. You say that, once it became clear that all encumbrances would be discharged, I was able to bid with greater confidence. Do you see that?

39 A: **Yes.**

40 Q: Well, in fact, you weren't bidding at all. You were taking instructions from West Moberly First Nations on what to bid; correct?

43 A: **Well, I, as an agent, was bidding on behalf of West Moberly First Nations. So it is both correct to say that I was bidding and it is also correct to say that West Moberly was instructing me to bid.**

Page 76

1 Q: And you must have discussed with West Moberly the strategy of bidding $650,000 in the expectation that Mrs. Liu would only bid 600,000?

4 A: **We would have discussed, yes.**

5 Q: All right. So West Moberly First Nations was in favour of that strategy and instructed to you pursue it?

8 A: **West Moberly instructed me to acquire the assets for them and to submit a bid that would hopefully win the day.**

17 Q: All right. But that was their -- that was West Moberly First Nations' instruction to you? Make the bid of $650,000?

20 A: **It certainly was an approach that West Moberly First Nations would have approved as I would not have made the bid without their approval.**

Page 84

4 Q: Why is it after I had challenged who and what TaneMahuta was in court and the court had a concern about it, why is it after that challenge you didn't say in your second affidavit TaneMahuta is acting as an agent for an undisclosed principal? Why didn't you say that as --

13 A: **It was not required of me, Mr. Fraser.**

...

16 A: **I had obligations to my client West Moberly to maintain their anonymity, which they had instructed me to maintain. I did not have the option to disclose it to the court, Mr. Fraser.**

63. Mr. Amanat confirms knowing that on September 17, the court would make a decision as to whom the assets would be sold to, and provided the following evidence regarding TaneMahuta's September 6 bid which required all of the assets to be delivered free and clear of encumbrances pursuant to a satisfactory vesting order and, its reason for increasing its offer to $2 million:

Page 41

17 Q: Well, you knew from the order of August 30th that these were going to be final bids and the winning bid was going to get the assets? You knew that; right?

21 A: **I don't know if -- does the word "final" appear anywhere?**

23 Q: It says, "your binding offers." You're a lawyer; you understand what this means; right? It says in paragraph 4:

> Binding offers will be considered on September the 17th.

You are there in court. You understood that the highest binding offer was going to be accepted and that would be the winning bid?

33 A: **Yes. We believed that -- that the decision would be made on September 17th as to whom the assets would be sold to, yes.**

Page 43

42 Q: Now, there's something a little bit different at the bottom, though, I just want to point out, after the defined term "target assets." Your July 31st offer said this would be free and clear of all claims and liens. And in your September the 6th offer, it says free and clear of all claims and liens pursuant to a vesting order in a form acceptable to the buyer. You see that?

Page 44

3 A: **I think it says by virtue, yes.**

4 Q: Yes. By virtue of a vesting order. And so I take it you discussed with Ms. Fellowes how the vesting order process would work. You expected there to be an order of the court saying, all these assets, they're vesting free and clear of all liens and encumbrances in TaneMahuta free and clear of all liens and claims. That's what -- that was the essence of your offer?

12 A: **I believe so, yes.**

13 Q: Okay. And so -- and so you've added the vesting order provision because your counsel advised you this is the way to ensure that these assets would be free and clear of all claims and encumbrances?

17 A: **I -- I believe so, yes. I can't recall precisely why I made some changes to that particular provision, but that seems like a reasonable conclusion, yes.**

Page 45

36 Q: Sorry. Just before you go on, are you an acquisition lawyer? Are you a specialist in acquisitions?

39 A: **I have -- I have experience in acquisitions, yes.**

...

43 Q: This is not intended to be complicated. You're a lawyer. This agreement -- this offer required an asset purchase agreement to be negotiated and signed, and so there would be no obligations of either party under that agreement until it was negotiated and signed; correct?

Page 46

2 A: **The -- the presence of a condition does not mean that an offer is not binding.**

...

4 Q: Well, what would this offer mean other than some obligation on the part of TaneMahuta Capital on behalf of its principal to negotiate an asset purchase agreement? Would it mean anything more than that -- some obligation to negotiate?

...

9 A: **It meant that we were willing to purchase at this price for these assets, that we were willing to put a deposit, that we needed -- that there was no financing condition. It meant that we required definitive documentation to be finalized, and it meant precisely what was written.**

Page 51

2 Q: I take it you must have advised your clients of the August 30th order and told them that the way things work is that the highest offer would be --the highest bid would be approved by the court in a subsequent hearing?

7 A: **So I think there are a few parts to your question. I must have certainly, though I don't recall precisely at this time, discussed with my client that there had been an order made on August 30th and that – that bid were expect by September 6th.**

As so to whether I had advised them that the highest bid would be accepted, I think what I would have said, though I can't recall, again, precisely what I would have said at the time --what I did say at that time I can't recall precisely -- but I would have presumably said that the bid of September 6th had to be compliant with the order, meaning that it had to be a binding offer. And I believe it was required to be accompanied by deposit.

Page 55

13 Q: If we can go back to Exhibit 12, which is the offer dated September 6th, 2024, made on behalf of West Moberly First Nations but in the name of TaneMahuta. If we go look at the definition of target assets which we looked at before, the term of the offer was that these assets would be free and clear of all claims and liens by virtue of a vesting order in a form acceptable to the buyer.

So you told me that you didn't discuss with Ms. Fellowes just how that vesting order was going to be obtained, but one way or the other, it was a condition of this offer, and you expected that the assets would be free and clear of all liens and encumbrances; correct?

27 A: **Yes. The way we wrote it shows that we expected the assets to be transferred free and clear.**

Page 65

22 Q: [Regarding] para 14 of Affidavit #2 in which Mr. Amanat offers an explanation as to why he was able to increase his bid to $2 million – ie., addition of Wapiti and Bullmoose eliminated creditor risk] I'm going to suggest to you that's a flat-out lie because in your September 6th bid you expected there to be no encumbrances against the assets on the closing if your bid was accepted?

30 A: **It is -- it is a true statement. My September the 6th bid was a binding offer subject to diligence. We had not been given any diligence. As is described in this affidavit in paragraph 13, I received new diligence information on September 18th. So it was only after I received this new diligence information and after I had been informed that the subsidiaries would be added as petitioners to the proceeding that I was able to know that all subsidiary-level encumbrances would be discharged. And this was a fluid process. Information was uneven. We were not given information about the assets and the encumbrances that existed despite having indicated our interest in the assets for months. We had not been engaged with. We had not been given the dignity and courtesy of proper responses to our offers. So we were bidding somewhat without knowledge of what was the precise basket of assets on which we were bidding. And when that basket became clearer after September 18th, we knew that it would be a basket of assets that were free and clear of all encumbrances. We had greater clarity about what was in the subsidiaries, and we were able to raise our bid.**

Page 67

40 Q: I have a different proposition for you -- one that's going to be closer to the truth. And that is in your September 6th bid, as it states, you

expected the target assets to be delivered free and clear of all liens and encumbrances. And the only reason why you want up to $2 million was because you knew that Mrs. Liu had bid $1,650,000, and to beat it, you had to go over $1,650,000. And that's the sole reason you bid 2 million; isn't that correct? You bid –

Page 68

6 A: **I think that's uncontroversial, Mr. Fraser. Of course we bid with knowledge of her bid. That --I had knowledge of her bid, and it was clear that it would have to be higher than 1.65 in order to beat Mrs. Liu's bid. However, that's not the only reason why we submitted a bid. We submitted a bid because as I pointed out we were told by the monitor that the bidding process was still open. And Mr. Bradshaw had confirmed in a separate email that we were welcome to bring something forward, if I could –**

17 Q: [Regarding paragraph 14] So the only thing you've left out of that was, we knew we had to go higher than $1,650,000 because that's what Mrs. Liu bid?

33 A: **I think that's evident. I -- I didn't think it was necessary to point it out. There's no secret that this is a competitive process between bidders.**

64. Mr. Amanat provided evidence attempting to explain why he did not make due diligence inquiries prior to September 6, although Ms. Fellowes K.C., based the TaneMahuta application to be permitted to make another bid in part on what she described as unfairness due to Mrs. Liu being an insider.

65. Mr. Amanat advised making due diligence inquiries did not seem to be the most important or material issue to inquire about and ask CDI for the information, despite alleging an imbalance of information, and that the most important matter was the purchase price to be put in the bid. He conceded that the information gap could have been closed with a few inquiries which would have taken him perhaps 15 to 20 minutes to make:

Page 69

8 Q: Let's go through this. What information did you not have prior to September the 6th that you were prevented from making due diligence inquiries about? Be specific. I want to know specifically what information you didn't have that you were unable to make due diligence inquiries about. Tell what that is.

15 A: **As I've stated, I could have made due diligence inquiries, but I did not feel it was reasonable to make such inquiries prior to there being an agreement in principle which would lead to a reasonable prospect of acquisition of the asset.**

35 Q: Well, you've been through this now, and we've been at this for months. You don't have it figured out now as to what information she had that you didn't have?

39 A: **Much more information that she has about the assets in the projects that I don't have.**

42 A: **With respect to the coal samples, for example. With respect to the site visits. With respect to --**

45 Q: Well, let's start with the coal samples. All right. The coal samples are described in the geological reports, so why did you need to see the actual coal samples?

Page 70

2 A: **Wanted to verify their existence.**

7 Q: Sorry. There's a report in the data room from a company called Northwest that describes the coal samples. Couldn't you have just simply called up the author of the report and obtained information as to whether they were real coal samples or not?

...

23 Q: All right. So you're saying it was too much trouble for you to pick up the phone and say, by the way, we're reading your report. Were there 110,000 coal samples, and did you look at them? It was too much effort for you?

28 A: **It was not a reasonable course of action when there had been no agreement to sell the assets to us.**

31 Q: So you say that was too much? Too much effort for you?

33 A: **It was not too much effort. It simply was not something I considered doing.**

35 Q: All right. So coal samples. And then what else, information, did Mrs. Liu have that you didn't have prior to September 6?

38 A: **I believe Mr. Bradshaw in his email of September 18th, which is Exhibit B in that second affidavit, he also provided Wapiti's financial statements up to August 31st, 2022. He provided additional details. These are the details that presumably Mrs. Liu knew.**

44 Q: Well, what did you learn in the Wapiti 2022 financial statements that was important for your bid?

47 A: **I can't recall at this time.**

Page 71

1 Q: Well, nothing. Would that be a fair statement? It was nothing. We're here spending a huge amount of money, and you're sitting across the table from me, and you can't recall what in the Wapiti statements was important for your bid. How is that possible?

7 A: **Mr. Fraser, I never claimed that there was something important. And I can't recall at this time whether there was something important or there was something not important. I think it's simply reasonable that we, as a bidder, should have access to the same information as the insider bidder, Mrs. Liu. That's all I'm suggesting. And you had asked me a very specific question: What did she know that I did not know. And I gave you an answer which included the items that Mr. Bradshaw had provided in his September 18th email.**

19 Q: You could have asked for the Wapiti financial statements prior to September the 6th; correct?

21 A: **Certainly I could have. But I didn't feel that it was reasonable in the circumstances, and I did not pursue that course of action.**

24 Q: So calling up Mr. Bradshaw, asking for the statement -- what do you estimate that would take?3 minutes? Maybe as many as 5 minutes?

27 A: **Possibly, yes.**

28 Q: Calling up the geologist who did the Northwest report which explained the results of the core sampling -- what would you say that would be? Maybe a little longer? It's more detailed. 5 to 10 minutes, maybe?

33 A: **If one was to engage in asking these questions, then one would engage in asking many, many other questions, which presumably would take a much longer period of time.**

Page 72

12 Q: Well, that's what I'm trying it get at. You've talked about a clear imbalance of information. So far I've heard I've heard two things. You weren't sure if there were 110,000 coal samples, and you didn't have the Wapiti 2022 financials statements. And –

24 A: **The other items I mentioned that were in Mr. Bradshaw's email [of September 18, 2024] about payables and claims against the company.**

27 Q: All right. So you could have asked him for that prior to September the 6th; correct?

29 A: **I could have certainly, yes.**

30 Q: Sent him an email saying, dear Mr. Bradshaw, can I have a list of any, you know, claims or payables by the subsidiaries. So how long -- you're probably pretty good at typing because you're a lawyer. We all do a lot of typing. Maybe, what, two, three minutes to send that email?

36 A: **I don't think it -- it did not occur as the right course of action at the time.**

38 Q: Well, I'm just trying to figure out if we can get an agreement on how long it would have actually taken you to make some inquiries in order to level the playing field with respect to information. So this is number 3, you know, liabilities. Couple minutes to send an email to Mr.

Bradshaw, and then he responds, and so maybe another few minutes to read what he actually said?

46 A: **Of course it would not have taken a significant amount of time. I -- I can't dispute that. But I restate that I did not think at the time that it was the right, correct, reasonable course of action.**

Page 73

36 Q: Well, if they occur to you [other types of information required to close the gap], you let me know. And, now, what you just agreed is that 15 or 20 minutes worth of effort on your part would have obtained that information. And you say that was all too much and too unreasonable for you to undertake prior to September the 6th?

42 A: **Again, we felt that the correct course of action was to have an agreement in principle and then for these details to be discussed in good faith as is customary afterwards.**

46 Q: All right. Well, let's get back to it. On August the 30th, the court has ordered a bid process. And you have until the end of the following week to put in your bid; correct? Now, you've described information unfairness with respect to a few things that would have taken you about 15 minutes to address. And yet you, knowing there is a bid coming up, didn't take that 15 minutes to get the information that you say Mrs. Liu had that you didn't have?

10 A: **At the time, I did not see that to be the critical item to resolve. That -- that, I think, is my only -- perhaps there are other reasons. I -- if I -- if I think back now to the week of August 30th to September 6th, I -- my recollection is that it did not seem to me to be the most important and material issue to inquire and ask those questions. I had assumed that the most important issue was the bid price and that the details would be worked out. I think -- if I had to guess at what was -- if I had to put myself in the position I was in then, which is several months ago, I think that's -- that's perhaps what I thought. ow, whether that was the right thought or the best way to proceed, I'm not sure. That's -- that's the best I can offer you, Mr. Fraser.**

66. When examined by Mr. Bradshaw, Mr. Amanat agreed that CDI did engage and negotiate with TaneMahuta about its July letters of intent and was told, among other objectionable features of the offers, the price was too low. For instance:

(a) at page 91, l. 6 to page 92, l. 41, Mr. Amanat agrees that after TaneMahuta delivered the July 3 LOI there was a meeting with his lawyer on July 17 at which Ms. Fellowes was told the price was too low, exclusivity was not acceptable and the price would need to be 7 figures. Then TaneMahuta submitted the Stalking Horse Bid and there was another conference call in which Ms. Fellowes was told

the marketing period was too short, the break fee was a problem and the price needed to be 7 figures;

(b) at page 92, l. 42 to page 93, l. 44, Mr. Bradshaw reviews the 2 LOIs and the advice given. Mr. Amanat agrees that purchase price is a material term reaching an agreement. Mr. Amanat agrees that after receiving CDI's feedback there was no increase in purchase price prior to September 6, 2024;

(c) at page 93, l. 44 to page 94, l. 5, Mr. Amanat is asked if he stands by his evidence the company [CDI] gave no view, did not engage and did not negotiate. He agrees the company did engage; and

(d) at page 94, l. 6 to 14, Mr. Amanat admits that TaneMahuta did not make due diligence requests prior to the original LOI or the Stalking Horse bid. He only asked for access to the data room and it was provided.

67. Mr. Amanat admitted that September 17, 2024, was the first time TaneMahuta made due diligence requests, and the requests were answered the next day. Mr. Amanat said that the approach was to reach agreement in principle first and then do due diligence and agreed that the most important aspect of an agreement in principle is purchase price.

68. During the cross-examination, Mr. Amanat refused to reveal the source of the $2 million and the reason why West Moberly wanted to remain anonymous by claiming client solicitor privilege. As a result, certain facts remain undisclosed as of this date:

(a) regarding the source of the balance of $2 million, other than the $937,276.69, Mr. Amanat's evidence is the following:

Page 5

27 Q: When we appeared in court in the third week of October of this year, your lawyer Ms. Fellowes, KC, said she had enough funds in her trust account for TaneMahuta to make a bid of $2 million. So did you bring any documents showing that she had $2 million or enough to make a bid for $2 million in her trust account?

34 A: **I do not have such documents in my possession.**

...

37 Q: And did she, in fact, have more money in her trust account than the $937,276.69 shown in Exhibit 3?

39 A: **Yes.**

40 Q: So how much money did she have in her trust account?

42 A: **That is privileged information.**

Page 6

7 Q: -- lawyer truthfully say -- just listen to my question -- truthfully advise the court that she had enough money in her trust account to make a bid of $2 million?

11 A: **I have answered the question.**

14 Q: Did she have it or not?

15 A: **Yes.**

16 Q: Okay. Well, how much in total did she have in her trust account?

18 A: **That is privileged information. I am a lawyer for West Moberly First Nations. And the information that they have provided that relates to this case -- that is privileged and subject to solicitor-client privilege. I am unable to disclose.**

(b) regarding the reason why West Moberly preferred to remain anonymous, Mr. Amanat provided the following evidence:

Page 10

20 Q: So why was that arrangement made? What -- what was the -- why wasn't West Moberly making its own bid in its own name for the Wapiti and Bullmoose assets?

24 A: **West Moberly preferred to remain anonymous in the bidding and did not want its activity in the bidding to be known.**

27 Q: And what was the reason? Why did it prefer to be anonymous?

29 A: **That is a question you'll have to ask West Moberly.**

31 Q: And so in all the time you're acting for them, taking advice, making these arrangements, you never bothered to ask them why they wanted to remain anonymous?

25 A: **I'm aware, but that's privileged information.**

69. Mr. Amanat also refused to reveal who the investors of TaneMahuta are, other than West Moberly:

(a) Page 29, l. 3 to l. 23, Mr. Amanat's letter refers to "investors and funding sources" but there was only West Moberly which is a single Indian Band; and

(b) Page 29, l. 44 to page 30, l. 45, Mr. Amanat offers an explanation for using the plural "investors" - West Moberly was composed of several groups and its individual members could be considered "investors".

D. Costs on Full Indemnity Basis

70. The Monitor's 16th Report dated August 29, 2024, at paragraph 27, advised that as of August 28, 2024, the Company held cash of approximately $42,000.

71. On November 18, 2024, the Monitor delivered its 20th Report advised outstanding professional fees for the Monitor and counsel for the Monitor and CDI, as follows:

> 41. With respect to the approval of the either the Sale Agreement or the TaneCap APA, the Monitor notes the following concerns:
>
> > (a) No further advances have been made pursuant to the DIP Loan and as a result, the Monitor and its counsel as well as the Company's counsel and are now relying on the Administrative Charge which is approved to be a maximum of $350,000;
> >
> > (b) The Monitor is advised that the Company's counsel is currently owed approximately $150,000 for outstanding fees, Monitor's counsel is owed approximately $80,000 and the Monitor is owed approximately $85,000;
> >
> > (c) The above noted outstanding fees total approximately $315,000 and accordingly if the Sale Agreement is approved, there will not be sufficient residual funds to bring the professionals current nor provide any amount to pursue the sale of the remaining assets of CDI or fund an alternative process that may be sought by the unsecured creditors without further advances under the DIP Loan; ...

72. By this date, it can be expected that the Administrative Charge will secure fees in the full amount of $350,000. In the Seventh Amended and Restated Initial Order, it provides the provisions that the Administration Charge takes priority over Mrs. Liu's DIP Loan as follows:

> 41. The priorities of the Administration Charge, Interim Lender's Charge, and the Directors' and Officers' Charge shall be as follows:
>
> > First – Administration Charge (to the maximum amount of $350,000);
> > Second – Interim Lender's Charge (to the maximum amount of $1,680,000);
> > Third – Directors and Officers' Charge (to the maximum amount of $200,000).
> > (collectively, the "**Charges**")

73. However, as discussed above, since July 2024, TaneMahuta, Mr. Amanat and Ms. Fellowes K.C., have made extraordinary efforts to deceive the court and have caused the following steps to be taken:

    (a) in its letters dated July 3, 9, 31, and August 26, 2024, misleading the court by claiming that TaneMahuta was acting on its own account and was interested in the Bullmoose and Wapiti Assets solely for environmental protection and with limited resources;

(b) at the hearing on August 30, 2024, misrepresenting to the court that TaneMahuta was prepared to buy the Bullmoose and Wapiti Assets; when TaneMahuta was acting for a concealed principal;

(c) TaneMahuta, Mr. Amanat and Ms. Fellowes K.C. submitted an offer in the name of TaneMahuta without revealing the offer was actually made by West Moberly, and the funds used belonged to West Moberly;

(d) at the hearing on September 17, 2024, Ms. Fellowes K.C. made submissions regarding TaneMahuta's offer without revealing that TaneMahuta was not acting on its own account. Mr. Amanat then made further submissions, again without revealing he, Ms. Fellowes K.C. and TaneMahuta were deliberately concealing they were acting for West Moberly;

(e) after the September 17, 2024 hearing, TaneMahuta made due diligence requests of CDI, and advised CDI and the Monitor of its intention to submit a revised offer for a purchase price exceeding the amount indicated in Mrs. Liu's Purchase Agreement, again with revealing it was acting for West Moberly;

(f) at the hearing on October 9, 2024, Ms. Fellowes K.C. required an opportunity for due diligence and a site visit of Wapiti and Bullmoose Projects by a geologist and engineer, and made submissions alleging unfairness and misconduct on the part of Mrs. Liu, CDI, its counsel, the Monitor, and its counsel. The submissions of Ms. Fellowes K.C. gave no suggestion that she was acting for a party that was not identified to the court;

(g) on October 15, 2024, Ms. Fellowes K.C., Mr. Amanat filed a notice of application purporting to be on behalf of TaneMahuta when the actual applicant was concealed from the Court;

(h) the hearing of this application required a four-day hearing during which Ms. Fellowes K.C. made serious allegations of unfair treatment, bad faith, dishonest and fraudulent conduct, and conflict of interest on the party of Mrs. Liu, CDI, its counsel, the Monitor, and its counsel;

(i) after the court granted an order for Mr. Amanat to be cross-examined on his second affidavit, Mr. Amanat failed to provide his availability for the cross-examination;

(j) Mr. Amanat also refused to provide the CSR for inspection, changed its Registered and Records office, and refused to provide its corporate records after a demand was made to its then counsel at RBS;

(k) just before the hearing on November 19, 2024, Mr. Amanat and TaneMahuta, acting on behalf of their concealed principal, replaced Ms. Fellowes K.C., with four counsel of McCarthy Tétrault LLP and delayed the process for Mr. Amanat's cross-examination; and

(l) at the hearing on November 19, 2024, Mr. Hanowski made submissions on TaneMahuta's possible intention to withdraw the second affidavit of Mr. Amanat and apply for the order for Mr. Amanat's cross-examination being vacated, and advised the court that he would provide TaneMahuta's position to CDI, the Monitor, the Applicant and other parties by November 26, 2024; and

(m) the actions of Mr. Amanat and his client West Moberly required a further hearing on December 2, 2024, which resulted in the order for cross-examination of Mr. Amanat on a fixed date. At that examination, the charade was revealed, although Mr. Amanat despite a partial waiver of solicitor client privilege refused to reveal just when West Moberly became interest in resource development and the source of the $2 million Ms. Fellowes K.C. said that she had in trust. He refused to reveal the associations West Moberly has with respect to their intended development of the coal fields. He refused to reveal why West Moberly wanted to remain concealed.

74. TaneMahuta, Mr. Amanat, Ms. Fellowes K.C., and West Moberly have caused significant commercial chaos and cost in these proceeds, by concealing the fact that TaneMahuta is merely a cover for West Moberly and by making an application that it had no standing to bring, a burden that should not be borne by Mrs. Liu.

75. TaneMahuta, Mr. Amanat and West Moberly's conduct has resulted in substantial professional fees being incurred for CDI, the Monitor as well as Mrs. Liu.

PART 3: LEGAL BASIS

76. Pursuant to section 11 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**"), this court may make any order that it considers appropriate in the circumstances:

> Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

77. Section 18.6 of CCAA provides that:

> **Good faith**
> 18.6 (1) Any interested person in any proceedings under this Act shall act in good faith with respect to those proceedings.
> (2) If the court is satisfied that an interested person fails to act in good faith, on application by an interested person, the court may make any order that it considers appropriate in the circumstances.

78. Mrs. Liu seeks costs against TaneMahuta, West Moberly, Mr. Amanat, and Ms. Fellowes K.C. of these proceedings as special costs on a full indemnity basis since October 30, 2024.

79. It is a foundational principle of the courts of British Columbia, that the court must know the identity of the parties appearing before it. This point was made by our court of appeal in ***Festing v. Canada (Attorney General),*** 2001 BCCA 612:

> [107] Nevertheless, the common law recognized that in some circumstances, the client's name itself might be properly the subject of privilege — i.e., that it might be a 'confidential communication' within the meaning of the Wigmore criteria. Thus it was held in the well-known decision of the Ontario Court of Appeal in ***Re United States of America v. Mammoth Oil Co.*** 1925 CanLII 410 (ON CA), [1925] 2 D.L.R. 966, that an Ontario lawyer was entitled to claim privilege for an unknown client in proceedings brought by the United States District Court to examine the lawyer and other members of his firm in Toronto about an alleged fraud arising out of the "Teapot Dome" scandal. The trial judge, Riddell J. (1924 CanLII 380 (ON SC), [1925] 2 D.L.R. 66, 56 O.L.R. 307 (H.C.)), had reasoned:
>
>> The first point to be considered is whether the solicitor can be compelled to disclose the name of his client. In this matter there can be no question as to the ordinary rule in litigation. Each litigant is entitled to know against whom he is fighting, and it has never been considered that the name of the client in litigation can be concealed. That is not disputed. But in this case it is said that the client is not litigating. . . . [at 74]
>
> [emphasis added]

80. Cases in which a party has sought to keep its identify a secret are rare. For example, in ***Millas v. British Columbia (Attorney General)***, [1999] B.C.J. No. 3007, when counsel sought to keep the identify of their client secret, the court ruled that the client must identify himself to the court and to the parties in order to pursue a claim.

81. In ***Carter v. Canada (Attorney General),*** 2011 BCSC 1371, Madam Justice Smith discusses the necessity of witnesses being identified in order to satisfy the open court principle and denied a request by a witness to remain anonymous:

> [73] With reference to the third part of the test, Mr. Reimer argues that concealing L.M.'s identity would deprive the defendants of a solid foundation for cross-examination, and that a meaningful opportunity to cross-examine is at the core of a fair trial: see *R. v. Henry*, 2005 SCC 76 (CanLII), [2005] 3 S.C.R. 609; *Smith v. Illinois* (1968), 390 U.S. 129. He submits that, in order to promote truthfulness, witnesses must come to court and identify themselves: he refers

to the open court principle. Canada's position is that if L.M. does not have to identify himself in court, the parties will be unable to test his evidence. Thus, the Court would lose the safeguard of accountability that is intrinsic to the open court principle. He relies on *Ringrose v. College of Physicians and Surgeons of the Province of Alberta*, 1978 ALTASCAD 41 (CanLII), [1978] A.J. No. 961 (C.A.); *R. v. Seaboyer*, 1991 CanLII 76 (SCC), [1991] 2 S.C.R. 577; *R. v. Osolin*, 1993 CanLII 54 (SCC), [1993] 4 S.C.R. 595; *R. v. Shearing*, 2002 SCC 58 (CanLII), [2002] 3 S.C.R. 33; and *R. v. Lyttle*, 2004 SCC 5 (CanLII), [2004] 1 S.C.R. 193. The Attorney General for Canada further says that granting an anonymity order will bring the administration of justice into disrepute by offending the openness that is a principal component of the legitimacy of the judicial process: see *Vancouver Sun (Re)*, 2004 SCC 43 (CanLII), [2004] 2 S.C.R. 332.

...

[86] I have concluded that the plaintiffs should not receive the order that they seek. I do not find that receiving the evidence of the anonymous witness L.M. is necessary in order to prevent a serious risk to the proper administration of justice. Further, I do not find that the benefit to be obtained outweighs the detriment to the right of the defendants to test evidence put forward by the plaintiffs and the detriment to the open court principle.

82. Several Ontario decisions have held that parties must be identified to the court. For example, in ***College of Opticians (Ontario) v. John Doe 1***, 2006 CanLII 42599 (ON SC), the court noted the following:

[41] I do not accept Mr. Aalto's submission. The identity of his clients in these circumstances could not possibly be a matter subject to solicitor-client privilege. Even if it were, once the Respondents chose to defend the application and bring a motion for relief, they waived any privilege they had in not disclosing their identities. A party cannot come into this court, seek relief and/or defend a matter and yet refuse to identify itself. The court must be in a position to know who is subject to any order it may make. I find that the respondents must identify themselves if they wish to defend the application.

[emphasis added]

83. The same ruling was made in ***Ontario Medical Association v Ontario (Information and Privacy Commissioner)***, 2017 ONSC 1650:

[17] None of the other parties take issue with the basic proposition that these physicians ought to be able to proceed, with their applications, without revealing their identities publicly, since, to proceed otherwise, would make the core issue raised in the applications moot. That rationale for permitting pseudonyms does not, however, extend to justifying the maintenance of

anonymity to the court itself. In my view, no person should be able to utilize the court's process without revealing their identity to the court. It is fundamentally inappropriate for the power and authority of the court to be invoked by an unknown person. There are a number of reasons for that conclusion. One is that the court must be satisfied that the person has a legitimate interest in employing the court's process. For another, the court must know who the parties to a proceeding are, so that any order that the court might make can be enforced. For yet another, there may be relief granted by the court, a costs order for example, that another party will wish to enforce. How does another party enforce such an order, when no one knows who the first party is? [emphasis added]

84. Ms. Fellowes K.C., Mr. Amanat, and West Moberly have made an extraordinary effort to deceive the court into believing that TaneMahuta was the actual bidder and the conceal the involvement of West Moberly. It is difficult to conceive of Ms. Fellowes K.C. providing advice that concealing the true party was acceptable conduct.

85. Special costs are awarded at the discretion of the court in cases where the conduct of one of the parties is "reprehensible". It encompasses scandalous or outrageous conduct as well as milder forms of misconduct deserving or rebuke.

Garcia v. Crestbrook Forest Industries Ltd. No. 2 (1994), 1994 CanLII 2570 (BC CA), 9 B.C.L.R. (3d) 242 (C.A.) ¶ 17;
Gichuru v. Smith, 2014 BCCA 414, ¶78

86. In ***Zhong Tie Enterprise Inc. v Topcorp Development Inc.,*** 2024 BCSC 1016, the court award special costs for misleading the court or deliberate or delayed non-disclosure which is what has occurred in these proceedings:

[8] In *Behan v. Park*, 2014 BCSC 1982, Justice Voith (as he then was) provided three factors to identify testimony that is worthy of rebuke through special costs:

[49] ...where a party gives:
i. false evidence that has been contrived, concocted or fabricated;
ii. with an intention to mislead: [citations omitted];
iii. on an issue that is central to the matter before the court: [citation omitted], and, which if accepted, would "drive [the opposing party] from the judgment seat": [citation omitted].

[9] Special costs may also be awarded where there is deliberate non-disclosure, delayed disclosure, a failure to respond to reasonable requests and when a party causes unnecessary interlocutory applications: *Kim v. Hong*, 2013 BCSC

2248 at para. 11; *Chew Fidelity Ltd. v. Greater Victoria Contracting Services Ltd.*, 2019 BCSC 1474 at para. 75.

87. In addition to the charade undertaken by Ms. Fellowes K.C. and Mr. Amanat, on behalf of their client, the allegations of misconduct made by Ms. Fellowes K.C. are also deserving of an award of special costs. Factors to consider are whether the allegations were obviously unfounded, recklessly made, or made out of malice. Madam Justice Ballance summarized the law in ***International Hi-Tech Industries Inc. v. FANUC Robotics Canada Ltd.***, 2007 BCSC 1724, where, at paras. 7-11, she said:

> [7] The case law demonstrates a wide variety of circumstances that have resulted in the awarding of special costs. The failure to prove allegations of fraud will not automatically result in such an award (see: *307527 B.C. Ltd. v. Langley*, 2005 BCCA 161, 210 B.C.A.C. 155). However, where the totality of the circumstances reveal that allegations of fraud have been made frivolously, are without foundation, or made in circumstances where the alleging party had access to information sufficient to conclude that the defendant was merely negligent or had committed no wrongdoing at all, the allegations themselves are seen to be reprehensible warranting an order of special costs: *Chaplin v. Sun Life Assurance Company of Canada et al.*, 2004 BCSC 116, 1 C.P.C. (6th) 271); *Hamilton v. Open Window Bakery Ltd.*, 2004 SCC 9 (CanLII), [2004] 1 S.C.R. 303, 235 D.L.R.(4th) 193.
>
> [8] In *Ip v. Insurance Corp. of British Columbia* (1994), 89 B.C.L.R. (2d) 251 at 253, 23 C.P.C. (3d) 345 (S.C.), Mr. Justice MacKinnon remarked that a party must give thoughtful consideration before making serious allegations of fraud. He stated, "At the very least, a *prima facie* case must exist and if it does not then special costs by way of 'chastisement' is a reminder...to exercise better care in the future."
>
> [emphasis added]

88. Mrs. Liu does not ask for the court to assess her special costs but does ask that costs be awarded against Ms. Fellowes K.C., Mr. Amanat, and their client West Moberly for the amount secured by the Administrative Charge presently, as well as other professional fees that are not presently secured. The amount of the costs caused by the Respondents and presently secured is set out in the Monitor's Reports and does not require an assessment before a Registrar. The additional professional fees that have been incurred also do not require an assessment as they have been incurred by competent counsel and an officer of the court.

89. To the extent any assessment is required, an exception to the general proposition that the Registrar is in the best place to determine the fees can arise in cases when the judge is intimately familiar with the litigation, or the time and costs of a registrar's hearing cannot be

justified, for example, when there is a concern that the payor party will prolong the assessment of costs by insisting on a microscopic review of the bill.

Gichuru at ¶107-109

90. TaneMahuta, West Moberly, and Mr. Amanat's conduct is reprehensible and deserves the rebuke of this court by way of payment of the Administrative Charge as well as any additional professional fess in excess of the Administrative Charge since August 30, 2024, as well as Mrs. Liu's special costs from and including August 30, 2024.

Costs Against Counsel

91. Pursuant to Rule 14-1(33), the court can order a party's lawyer be personally liable for costs:

> (33) If the court considers that a party's lawyer has caused costs to be incurred without reasonable cause, or has caused costs to be wasted through delay, neglect or some other fault, the court may do any one or more of the following:
>
> > (a) disallow any fees and disbursements between the lawyer and the lawyer's client or, if those fees or disbursements have been paid, order that the lawyer repay some or all of them to the client;
> >
> > (b) order that the lawyer indemnify the lawyer's client for all or part of any costs that the client has been ordered to pay to another party;
> >
> > (c) order that the lawyer be personally liable for all or part of any costs that the lawyer's client has been ordered to pay to another party;
> >
> > (d) make any other order that the court considers will further the object of these Supreme Court Civil Rules.

92. The authorities of this court make it clear that the threshold for exercising the power to award costs against lawyers is high, such that there must be a finding of reprehensible conduct by the lawyer. Reprehensible conduct "represents a marked and unacceptable departure from the standard of reasonable conduct expected of a player in the judicial system", citing *Quebec (Director of Criminal and Penal Prosecutions) v. Jodoin*, 2017 SCC 26 at para. 29:

> [29] In my opinion, therefore, an award of costs against a lawyer personally can be justified only on an exceptional basis where the lawyer's acts have seriously undermined the authority of the courts or seriously interfered with the administration of justice. This high threshold is met where a court has before it an unfounded, frivolous, dilatory or vexatious proceeding that denotes

> a serious abuse of the judicial system by the lawyer, or dishonest or malicious misconduct on his or her part, that is deliberate...
>
> ***Nuttall v. Krekovic***, 2018 BCCA 341 at para. 28

93. In ***R. v. Dunbar, Pollard, Leiding and Kravit,*** 2003 BCCA 667, the court of appeal noted that counsel must not mislead the court:

> [336] In Rondel v. Worsley, [1967] 3 All E.R. 993 (H.L.), Lord Reid stated the duty of counsel to the client ... He continued, however, to outline the manner in which the lawyer's role as an officer of the court imposes some restraint on the duty to the client (p. 998):
>
> > As an officer of the court concerned in the administration of justice, he has an overriding duty to the court, to the standards of his profession, and to the public, which may and often does lead to a conflict with his client's wishes or with what the client thinks are his personal interests. Counsel must not mislead the court, he must not lend himself to casting aspersions on the other party or witnesses for which there is no sufficient basis in the information in his possession, he must not withhold authorities or documents which may tell against his clients but which the law or the standards of his profession require him to produce.
>
> Lord Upjohn similarly noted (p. 1034) that "counsel is in a very special position and owes a duty not merely to his client but to the true administration of justice". [Emphasis added]

94. In these proceedings, Ms. Fellowes K.C. and Mr. Amanat intentionally concealed the fact that she was representing West Moberly, and that Mr. Amanat was also the lawyer for West Moberly and being paid for his time by West Moberly to secure the Wapiti and Bullmoose Assets, all the while concealing the true party before the court. Although West Moberly's reasons for being anonymous have not been revealed, and the inference can be drawn that it was to conceal West Moberly wanted to pursue coal development. The concealment of the involvement of West Moberly, if it had succeeded, would have meant that an order for costs would never have been made against West Moberly.

95. In addition, Ms. Fellowes K.C., made numerous, unfounded as Mr. Amanat's cross-examination revealed, allegations against counsel and Mrs. Liu of serious misconduct. If ever there was a case in which costs should be awarded against counsel personally, this is such a case.

96. In addition to the order sought with respect to costs, Mrs. Liu's offer of $1,650,000 should be approved in order to preserve the integrity of the bidding process, and pursuant to the discretion provided by sections 11 and 18.6 of the CCAA. As TaneMahuta has withdrawn the offer made on behalf of its concealed principal, there is only one binding bid submitted by

the bid deadline of September 6, 2024. Given the misconduct in which West Moberly has engaged, its request to made a bid should be ignored.

97. As there is no competing bid, there is no need for an adjustment to Mrs. Liu's bid by reason she is a related party. If the court orders the Administrative Charge to be paid by the Respondents, Mrs. Liu will not be required to pay the amount secured by the Administrative Charge and she should not be so required. Her bid will reduce the amount owing on her DIP loan by $1,450,000, and leave CDI with a further $200,000 to pursue further realization on behalf of the creditors of CDI.

PART 4: MATERIAL TO BE RELIED ON

98. Affidavit #1 of Xiao (Helen) Liu made October 15, 2024.

99. Affidavit #2 of Xiao (Helen) Liu made November 15, 2024

100. Affidavit #3 of Xiao (Helen) Liu made November 28, 2024.

101. Affidavit #1 of Elyssa Boongaling made November 29, 2024.

102. Affidavit #2 of Elyssa Boongaling made December 23, 2024.

103. The pleadings and proceedings herein.

104. Such further and other materials as counsel may advise and the court may permit.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

(a) file an application response in Form 33,

(b) file the original of every affidavit, and of every other document, that

(i) you intend to refer to at the hearing of this application, and

(ii) has not already been filed in the proceeding, and

(c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

(i) a copy of the filed application response;

(ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: December 30, 2024

Signature of Lawyer for the Applicant
Lawyer: R. Barry Fraser
Telephone: 604-343-3101
Email: bfraser@fraserlitigation.com

This NOTICE OF APPLICATION is prepared by R. Barry Fraser of the firm of **Fraser Litigation Group** whose place of business is 1100-570 Granville Street, Vancouver, British Columbia, V6C 1P3 (Direct #:604.343.3101, Fax #: 604.343.3119, Email: bfraser@fraserlitigation.com) (File #: 60913-001).

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs .... of Part 1 of this notice of application

☐ with the following variations and additional terms: ....

....

....

....

Date: .... *[dd/mmm/yyyy]*

Signature of ☐ Judge ☐ Associate Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

SCHEDULE "A"

No. S-224444
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,

R.S.C. 1985, C. C-36, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF CANADIAN DEHUA INTERNATIONAL MINES GROUP INC., WAPITI COKING COAL MINES CORP., AND CANADIAN BULLMOOSE MINES CO., LTD.

PETITIONERS

SERVICE LIST

(Last Updated: November 28, 2024)

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SCHEDULE "B"

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is made effective as of October 9, 2024,

BETWEEN:

> **CANADIAN DEHUA INTERNATIONAL MINES GROUP INC.** (Incorporation Number BC0712504), a company incorporated pursuant to the laws of British Columbia and having an office at Suite 202 – 2232 West 41st Avenue, Vancouver, BC V6M 1Z8
>
> ("**CDI**")

AND:

> **CANADIAN BULLMOOSE MINES CO., LTD.** (Incorporation Number BC0907740), a company incorporated pursuant to the laws of British Columbia and having an office at 3577 West 34th Avenue, Vancouver, BC V6N 2K7
>
> ("**BULLMOOSE**")

AND:

> **WAPITI COKING COAL MINES CORP.** (Incorporation Number BC1028948), a company incorporated pursuant to the laws of British Columbia and having an office at 3577 West 34th Avenue, Vancouver, BC V6N 2K7
>
> ("**WAPITI**")

(CDI, BULLMOOSE, and WAPITI are herein referred to collectively as the "**Vendors**")

AND:

> **QU BO LIU**, a business person having an address at 3577 West 34th Avenue, Vancouver BC V6N 2K7
>
> (the "**Purchaser**")

BACKGROUND

A. The Vendors carry on business of investing in, exploring, developing, and operating under-ground coal mining projects and supporting infrastructure in British Columbia and elsewhere, including two wholly owned mining projects described as the Wapiti Project (the "**Wapiti Project**") and the Bullmoose Project (the "**Bullmoose Project**") (the Wapiti Project and the Bullmoose Project are herein referred to collectively as the "**Projects**").

B. CDI is the legal and beneficial owner of the issued and outstanding shares in the capital of WAPITI, being 1,000,000 Voting Common Shares without par value. (the "**Wapiti Shares**") and WAPITI is the owner of the Wapiti Project, including all permits, mineral interests and coal licences, geological and exploration data, and intellectual property used or held directly or indirectly by CDI and WAPITI or either of them in the Wapiti Project, including without limitation the Wapiti Project Mineral Titles and Coal Licences as herein defined (collectively, the "**Wapiti Assets**").

C. CDI is the legal and beneficial owner of the issued and outstanding shares in the capital of BULLMOOSE, being 8,242,024 Class A Common Voting Shares without par value (the "**Bullmoose Shares**"), and Bullmoose and CDI or either of them are the owner of the Bullmoose Project, including all permits, mineral interests and coal licences, geological and exploration data, and intellectual property used or held directly or indirectly by CDI and BULLMOOSE or either of them in the Bullmoose Project, including without limitation the Bullmoose Project Mineral Titles and Coal Licences as herein defined registered in the name of CDI (collectively, the "**Bullmoose Assets**").

D. The Vendors and the Projects are the subject of certain proceedings brought pursuant to the *Companies' Creditors Arrangement Act* (Canada) in the Supreme Court of British Columbia, Vancouver Registry No. S-224444 (the "**CCAA Proceedings**").

E. Pursuant to the Orders of the Supreme Court of British Columbia (the "**Court**") in the CCAA Proceedings:

   a. the Vendors are authorized to pursue all avenues of sale of their respective assets, including their respective interests in the Projects, in whole or in part, subject to prior approval of the Court before any material sale is concluded; and

   b. the sale of the Vendors' interests in the Projects are to be implemented in compliance with the Modified Sale and Investment Solicitation Process Outline approved by the Court (the "**SISP**").

F. Pursuant to Debtor in Possession financing provided by the Purchaser to the Vendors, the Vendors are indebted to the Purchaser for $1,499,331 (the "**DIP Loan**").

G. Pursuant to and in accordance with the SISP, the Vendors have agreed to sell and the Purchaser has agreed to purchase all of the Vendors' right, title, and interest in and to the assets used or held in or for the Projects, including without limitation: the Wapiti Shares; the Wapiti Assets; the Bullmoose Shares; and the Bullmoose Assets; free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein or thereon, on the terms and subject to the conditions set-out herein.

TERMS OF AGREEMENT

In consideration of the premises and the covenants and agreements contained in this Agreement, the parties agree with each other as follows:

1. Interpretation

1.1 In this Agreement:

(a) "**Agreement**" means this agreement and all amendments made hereto by written agreement between the Vendors and the Purchaser;

(b) "**Assets**" means the Wapiti Shares, the Wapiti Assets, the Bullmoose Shares, and the Bullmoose Assets, and includes without limitation all applications, permits, mineral interests and coal licences, consultant reports, geological and exploration samples and data, and intellectual property used or held directly or indirectly by the Vendors or any of them in the Projects;

(c) "**Bullmoose Project Mineral Titles and Coal Licences**" means the following Mineral Titles in respect of which CDI is the registered owner:

(i) Mineral Title #s 417760 to #417762;

(ii) Mineral Title # 417767;

(iii) Mineral Title #s 417770 to 417772; and

(iv) Mineral Title #s 417775 and 417776;

(d) "**Closing Date**" means October 17, 2024 or such other date as may be mutually agreed upon in writing by the parties;

(e) "**Shares**" means the 1,000,000 Voting Common Shares without par value in the capital of WAPITI, and the 8,242,024 Voting Common Shares without par value in the capital of BULLMOOSE, held by CDI;

(f) **"Time of Closing"** means 12:00 Noon Pacific Time on the Closing Date;

(g) **"Wapiti Project Mineral Titles and Coal Licences"** means the following Mineral Titles in respect of which WAPITI is the registered owner:

(i) Mineral Title #s 418161 to 418163;

(ii) Mineral Title # 418166; and

(iii) Mineral Title # 418168;

and any terms used herein denoted with initial capital letters shall have the meanings assigned to them by the provisions of this Agreement.

1.2 The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder", and similar expressions refer to this Agreement and not to any particular article, section, or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to articles and sections are to articles and sections of this Agreement.

1.3 In this Agreement words importing the singular number only shall include the plural and vice versa, wordings importing the masculine gender shall include the feminine, and neuter genders and vice versa and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations, and companies. The term "including" means "including without limiting the generality of the foregoing".

1.4 All references to currency herein are to lawful money of Canada.

2. Purchase and Sale of Assets

2.1 Subject to the terms and conditions of this Agreement, on the Closing Date the Vendors will sell, assign, and transfer to the Purchaser and the Purchaser will purchase from the Vendors, as applicable, all (but not less than all) right, title, and interest in and to the Assets free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein or thereon for a total purchase price of **$1,650,000.00** (the "**Purchase Price**").

2.2 The Purchase Price will be paid and satisfied as provided in section 9.3 and delivered by the Purchaser to the Vendors on the Closing Date against delivery to the Purchaser of the documents described in section 9.2.

2.3 The parties agree to use reasonable efforts to agree prior to the Closing Date on an allocation of the Purchase Price among the components of the Assets in accordance with the fair market value of such components on the Closing Date. However, the parties further agree that failure to agree on such an allocation prior to the Closing Date will not render this Agreement unenforceable or result in a termination of this Agreement, and in such case each of the Vendors and the Purchaser will make its own determination of allocation.

3. Mutual Condition.

The obligation of the parties to complete the transactions contemplated by this Agreement shall be subject to the following mutual condition, which is for the benefit of both the Vendors and the Purchaser:

> On or before the Closing Date, the Vendors shall have obtained (at the sole cost of the Vendors) an Order or Orders of the Court (collectively, the "**Final Order**"):

(i) approving the sale of the Assets to the Purchaser on the terms and conditions of this Agreement; and

(ii) upon the completion of the transactions contemplated by this Agreement, all right, title, and interest in and to the Assets used or held directly or indirectly by the Vendors or any of them in the Projects, including the Wapiti Shares, the Wapiti Assets, the Bullmoose Shares, and the Bullmoose Assets, shall vest absolutely in the Purchaser, WAPITI, and BULLMOOSE, as applicable, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, options, trusts or deemed trusts (whether contractual, statutory, or otherwise), encumbrances, liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing, (A.) any encumbrance or charge created by order of the Court in the CCAA Proceeding; (B.) any Claim by Canada Zhonghe Investment Ltd.; and (C.) any Claim by HIBS Group International Holding Co. Limited (formerly Hebei Iron & Steel Group Co., Ltd.).

4. Deposit

4.1 Prior to the service of the materials for the application to the Court for the Final Order, the Purchaser shall pay a deposit of $165,000 (the "**Deposit**"), to DLA Piper (Canada) LLP, 2700 – 1133 Melville Street, Vancouver, BC V6E 4E5, to be held in accordance with the terms of this Agreement.

4.2 At the Closing, the Deposit shall be paid to the Vendors on account of the Purchase Price as provided in this Agreement.

4.3 If the transactions contemplated by this Agreement are not completed on the Closing Date:

(a) by reason of the failure to obtain the Final Order;

(b) by reason of the default of the Vendors or any of them in the performance or satisfaction of their respective obligations under this Agreement, or

(c) otherwise through no fault of any party,

the Deposit shall be forthwith returned to the Purchaser.

4.4 If the transactions contemplated by this Agreement are not completed on the Closing Date by reason of the default of the Purchaser in the performance or satisfaction of any of its obligations under this Agreement, the Deposit shall be paid to the Vendors as liquidated damages and not as a penalty, and upon payment of the Deposit the Vendors and each of them will have no further claim against the Purchaser for any additional damages or loss whatsoever.

5. Representations and Warranties

The parties acknowledge and represent that:

(a) the sale of the Assets is on an "as is, where is" basis;

(b) the Vendors do not make or give any representations or warranties that survive the completion of the transactions contemplated by this Agreement;

(c) the Purchaser has had an opportunity to conduct any and all due diligence regarding the Assets and the Vendors prior to making its offer;

(d) the Purchaser has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in entering into this Agreement and completing the transactions contemplated by this Agreement; and

(e) the Purchaser did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Assets, the Vendors or the completeness of any information provided in connection therewith, except as expressly stated herein.

6. Vendors' Covenants

At or before the Time of Closing, the Vendors will deliver to the Purchaser possession of all books, records, book accounts, and all other documents, files, records, and other data, financial or otherwise, including mineral interests and coal licences, geological and exploration data, and intellectual property, relating to the Assets.

7. Purchaser's Conditions of Closing

7.1 The obligations of the Purchaser under this Agreement are subject to the following conditions for the exclusive benefit of the Purchaser being fulfilled at the Time of Closing or waived by the Purchaser at or before the Time of Closing:

(a) the Vendors and each of them will have complied with all terms and covenants in this Agreement agreed to be performed or caused to be performed by them at or before the Time of Closing;

(b) no action or proceeding against the Assets or the Vendors, or any of them, will be pending or threatened by any person, company, firm, governmental authority, regulatory body, or agency to enjoin or prohibit the purchase and sale of the Assets or any of them as contemplated by this Agreement, or the right of the Purchaser, BULLMOOSE, and WAPITI, as applicable, to directly or indirectly own the Assets free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein or thereon, as contemplated by this Agreement;

(c) all necessary steps and proceedings will have been taken to permit the Assets to be duly and regularly transferred to and registered in the name of the Purchaser, as applicable, free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein or thereon.

7.2 If on the Closing Date any of the conditions in section 7.1 are not fulfilled or waived as contemplated in section 7.3, the Purchaser may rescind this Agreement by notice in writing to the Vendors. In such event, the Purchaser shall be released from all obligations under this Agreement, and the Vendors will also be released unless the Vendors or any one or more of them were reasonably capable of causing such condition or conditions to be fulfilled, or the Vendors or any of them have breached any of their covenants or agreements in this Agreement.

7.3 The conditions in section 7.1 may be waived in whole or in part by the Purchaser without prejudice to any right of rescission or any other right in the event of the non-fulfillment of any other condition or conditions. A waiver will be binding only if it is in writing.

8. Vendors' Conditions of Closing

8.1 The obligations of the Vendors under this Agreement are subject to the following conditions for the exclusive benefit of the Vendors being fulfilled at the Time of Closing or waived by the Vendors at or before the Time of Closing:

(a) the Purchaser will have complied with all terms, covenants, and agreements in this Agreement agreed to be performed or caused to be performed by it on or before the Time of Closing; and

(b) no action or proceeding against the Purchaser will be pending or threatened by any person, company, firm, governmental authority, regulatory body, or agency to enjoin or prohibit the purchase and sale of the Assets or any of them as contemplated by this Agreement or the right of the Purchaser to directly and indirectly own the Assets.

8.2 If on the Closing Date any of the conditions in section 8.1 are not fulfilled or waived as contemplated in section 8.3, the Vendors may rescind this Agreement by notice in writing to the Purchaser. In such event, the Vendors and the Purchaser shall be released from all obligations under this Agreement.

8.3 The conditions in section 8.1 may be waived in whole or in part by the Vendors without prejudice to any right of rescission or any other right in the event of non-fulfillment of any other condition or conditions. A waiver will be binding only if it is in writing.

9. Closing

9.1 Closing Location

Unless otherwise agreed to by the parties in writing, the closing of the transactions contemplated by this Agreement (the "**Closing**") will take place at the offices of DLA Piper (Canada) LLP, 2700 – 1133 Melville Street, Vancouver, BC V6E 4E5 or by way of exchange of documents, at 12:00 noon Pacific Time on the Closing Date, or such earlier or later date as the parties may agree to in writing. All documents may be delivered electronically, other than payments, share certificates, powers of attorney, and other similar documentation, and, all documents deliverable at closing in accordance with this Agreement shall be tabled and held in escrow until all deliveries are completed, and until all parties have agreed to release the documents and terminate the escrow.

9.2 Vendors' Closing Documents

At the Closing, the Vendors as applicable will tender to the Purchaser:

(a) a Court certified copy of the Final Order and any other orders of the Court as are necessary or advisable to effect the transfer of the Assets in accordance with the terms and conditions of this Agreement;

(b) certified copies of the resolutions of the directors of the Vendors, as applicable, in form satisfactory to the Purchaser acting reasonably, authorizing the sale of the Assets, including the transfers of the Shares to the Purchaser;

(c) certified copies of resolutions of the directors of WAPITI and BULLMOOSE, as applicable, in form satisfactory to the Purchaser acting reasonably, authorizing the transfers of the Shares to and registration of the Shares in the name of the Purchaser and the issue of new share certificates representing the Shares in the name of the Purchaser;

(d) share certificates in the name of the Vendor representing the Shares duly endorsed for transfer and duly executed share certificates representing the Shares in the name of the Purchaser;

(e) certified copies of the central securities registers of WAPITI and of BULLMOOSE recording that the Purchaser is the holder of the Shares, as applicable;

(f) duly signed resignations of the directors and officers of WAPITI and BULLMOOSE specified by the Purchaser, or certified copies of shareholder resolutions of each of WAPITI and BULLMOOSE removing the directors and officers of WAPITI and BULLMOOSE specified by the Purchaser;

(g) a bill of sale conveying the Assets to the Purchaser, as applicable;

(h) transfers of the Bullmoose Project Mineral Titles and Coal Licences in the form required by the applicable governmental authority;

(i) If required by the Purchaser, transfers of the Wapiti Project Mineral Titles and Coal Licences in the form required by the applicable governmental authority;

(j) possession of all books, records, book accounts, and all other documents, files, records, and other data, financial or otherwise, used or held in or for WAPITI, the Wapiti Project, BULLMOOSE, and the Bullmoose Project, including all mineral and coal licences, geological and exploration data and intellectual property used or held in or for the Wapiti Project and the Bullmoose Project; and

(k) such other documents and assurances as may be reasonably required by the Purchaser to give full effect to the intent and meaning of this Agreement.

9.3 Purchaser's Closing Documents

At the Closing, the Deposit shall be paid to the Vendor, and the Purchaser will tender to the Vendors:

(a) a certificate authorizing the Vendors to set off and apply $1,450,000 of the DIP Loan against the Purchase Price payable under this Agreement, in form satisfactory to the Vendors acting reasonably; and

(b) a certified cheque or bank draft payable to the Vendors in the amount of $35,000.

10. General

10.1 Reliance

The Vendors and each of them acknowledge and agree that the Purchaser has entered into this Agreement relying on the representations, warranties, covenants, and agreements, and other terms and conditions of this Agreement.

10.2 Commissions, Legal Fees

Each of the parties will bear the fees and disbursements of the respective lawyers, accountants, and consultants engaged by them respectively in connection with this Agreement and will not cause or permit any such fees or disbursements to be charged to the Vendors or any of them before the Closing Date.

10.3 Notices

Any demand, notice, or other communication to be given in connection with this Agreement must be given in writing and will be given by personal delivery, (by registered mail) or by electronic means of communication addressed to the recipient as follows:

To the Vendors or any of them:

DLA Piper (Canada) LLP,2700 – 1133 Melville Street, Vancouver, BC V6E 4E5

Attention: Jeffrey Bradshaw jeffrey.bradshaw@dlapiper.com

To the Purchaser:

Fraser Litigation Group, 1100 – 570 Granville Street, Vancover, BC V6C 3P1

Attention: R. Barry Fraser BFraser@FraserLitigation.com

or to such other street address, individual or electronic communication number, or address as may be designated by notice given by either party to the other. Any demand, notice, or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, (if given by registered mail, on the third business day following the deposit thereof in the mail and), if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the business day during which such normal business hours next occur if not given during such hours on any day. (If the party giving any demand, notice, or other communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of mail, any such demand, notice, or other communication may not be mailed but must be given by personal delivery or by electronic communication.)

10.4 Time of Essence

Time is of the essence of this Agreement.

10.5 Severability

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part thereof, and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

10.6 Further Assurances

Each of the parties will execute and deliver such further documents and instruments and do such acts and things as may, before or after the Closing Date, be reasonably required by the other party to carry out the intent and meaning of this Agreement.

10.7 Proper Law

This Agreement will be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of British Columbia.

10.8 Entire Agreement

This Agreement contains the whole agreement between the Vendors and Purchaser pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions between the parties and there are no representations, warranties, covenants, conditions, or other terms other than expressly contained in this Agreement.

10.9 Assignment

This Agreement may not be assigned by any party without the prior written consent of the other party, which consent may be arbitrarily withheld.

10.10 Benefit and Binding Nature of the Agreement

This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns.

10.11 Amendments and Waiver

No modification of or amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties and no waiver of any breach of any term or provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same, and unless otherwise provided, will be limited to the specific breach waived.

10.12 Counterparts and Delivery

This Agreement may be executed in counterparts and such counterparts together shall constitute a single instrument. Delivery of an executed counterpart of this Agreement by electronic means, including by facsimile transmission or by electronic delivery in portable document format (".pdf"), whether containing signatures by hand of the signatory or computer or machine-generated signatures, shall be equally effective as delivery of a manually executed counterpart hereof, and will constitute delivery of an original document.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement as of the date and year first above written.

CANADIAN DEHUA INTERNATIONAL MINES GROUP INC.

Per: ______________________________
Authorized Signatory

Per: ______________________________
Authorized Signatory

CANADIAN BULLMOOSE MINES CO., LTD.

Per: ______________________________
Authorized Signatory

Per: ______________________________
Authorized Signatory

WAPITI COKING COAL MINES CORP.

Per: ______________________________
Authorized Signatory

Per: ______________________________
Authorized Signatory

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